

# UTILITIES

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## HIGHWAY UTILITY EASEMENTS

### 1. Types of Activities Regulated

Utility facilities used to transport or distribute hydrocarbons, electric power, energy, communication signals, water and sewage are authorized to occupy highway rights-of-way if they conform to certain standards approved by the Montana Department of Transportation (MDT) (see also HIGHWAY ENCROACHMENTS, p. 65). All other facilities are considered privately owned and must receive a permit from the MDT before being constructed in a highway right-of-way. City councils and Boards of County Commissioners may grant similar approval along city streets and county roads.

Statute: 7-13-2101 and 7-13-4101, MCA

Rule: ARM 18.7.201, *et seq.* and 18.7.221-18.7.232

Contact: CITY OR TOWN COUNCIL

BOARD OF COUNTY COMMISSIONERS

DEPARTMENT OF TRANSPORTATION  
Division Office

### 2. Permitting Procedures

- 1) The utility must prepare and submit a notice of its proposed occupancy to the appropriate division office of the MDT. The notice must be submitted in triplicate and accompanied by utility plans showing the locations of the proposed facilities in relation to the highway centerline and right-of-way.
- 2) The division supervisor or chief will review the occupancy proposed by the utility. If the proposal conforms with certain standards, specified by rule, the supervisor must sign it, and if not, the supervisor must specify in writing the reasons the proposal is not in compliance. Standards include preserving the natural environment to the greatest extent possible, maintaining the facility and avoiding hazards or conflicts between the highway and the facility.
- 3) The utility may resubmit its proposal after making the necessary changes to comply with the standards.

Rule: ARM 18.7.232

## IMPROVEMENT AND UTILITY DISTRICTS

### 1. Types of Activities Regulated

A number of means of funding are available to cities and counties for the construction of capital improvements such as streets, malls, lighting, parking, water and sewer systems, etc. Provisions vary, but typically, an improvement district may be established by the local government. In some cases, a petition by residents of the district is required. A board of directors may be elected or appointed, or the local government itself may be the authority. The district may sell bonds to finance the improvements, and an assessment is levied on benefitted property to service the bond debt and to operate and maintain the improvements. In some cases, user fees may be assessed. Potential developers should contact local authorities to determine applicable requirements.

Statute: Business Improvement Districts:  
               7-12-1101, *et seq.*, MCA  
 Consolidated Local Government Water Supply and Sewer Districts:  
               7-13-3001, *et seq.*, MCA  
 County Water/Sewer Districts:  
               7-13-2201, *et seq.*, MCA  
 Fire Hydrant Maintenance Districts:  
               7-12-4601, *et seq.*, MCA  
 Industrial Revenue Bonds:  
               90-5-101, *et seq.*, MCA  
 Lighting Districts:  
               7-12-2201, *et seq.* and 7-12-4301, *et seq.*, MCA  
 Local Water Quality Districts:  
               7-13-4501, *et seq.*, MCA  
 Metropolitan Sanitary/Storm Sewer Districts:  
               7-13-101, *et seq.*, MCA  
 Municipal Revenue Bonds:  
               7-7-4401, *et seq.*, MCA  
 Municipal Sewage/Water Systems:  
               7-13-4301, *et seq.*, MCA  
 Overhead Facilities Converted to Underground Location:  
               69-4-301, *et seq.*, MCA  
 Park Maintenance Districts:  
               7-12-4001, *et seq.* MCA  
 Public Sewer Systems:  
               7-13-4201, *et seq.*, MCA

Rural Fire Districts:

7-33-2101, *et seq.*, MCA

Rural Improvement Districts:

7-12-2101, *et seq.*, MCA

Solid Waste Management Districts:

7-13-201, *et seq.* and 7-13-301, *et seq.*, MCA

Special Improvement Districts:

7-12-4101, *et seq.*, MCA

Street Parking Districts:

7-12-4501, *et seq.*, MCA

Street Maintenance Districts:

7-12-4401, *et seq.*, MCA

Wildland Fire Protection Districts:

76-13-201, *et seq.*, MCA

## **NATURAL GAS SUPPLIERS**

### **1. Types of Activities Regulated**

Gas suppliers must be licensed by the Public Service Commission before offering natural gas for sale to retail customers. Licensed suppliers must complete and maintain an electronic registration form on the Commission internet site (<http://psc.mt.gov/Energy/GSupplierRegistration.asp>) and file annual reports.

Statute: 69-3-1401, *et seq.*, MCA

Rule: ARM 38.5.7010-38.5.7016

Contact: PUBLIC SERVICE COMMISSION  
Utility Division

### **2. Application Requirements**

The license application requests detailed information about the company's organization and services to ensure that the supply will be provided as offered and is of adequate quality, safety and reliability. If the application is complete, the Commission will issue a license within 30 days of receipt.

Statute: 69-3-1405, MCA

Rule: ARM 38.5.7010

Contact: PUBLIC SERVICE COMMISSION  
Utility Division

## PIPELINES: UNDERGROUND EXCAVATION

### 1. Types of Activities Regulated

#### A. Common Carrier Pipelines

An entity owning, operating or managing a pipeline for others for the transportation of crude petroleum, coal or their products may obtain the right to construct and operate pipelines in public streams or highways by filing a written agreement with the Montana Public Service Commission (PSC) to become a common carrier pipeline. Entities constructing pipelines must follow statutory condemnation procedures. The pipelines may not be placed in public streets or alleys without obtaining permission from the city.

Statute: 69-13-101, *et seq.*, MCA

Rule: ARM 38.7.101 and 38.7.102

Contact: PUBLIC SERVICE COMMISSION

CITY OR TOWN COUNCIL

BOARD OF COUNTY COMMISSIONERS

#### B. Natural Gas Pipelines

The PSC enforces the safety regulations adopted under the Natural Gas Pipeline Safety Act of 1968, as amended. This authority extends over intrastate pipeline operators and systems. The PSC also has the power to investigate all methods and practices of pipeline owners and operators, to make report filing requirements, to issue informal reports of probable violations and orders to show cause, to establish formal enforcement procedures, to hold hearings and to enter onto the property and inspect books and records relevant to the PSC's enforcement responsibilities.

Statute: 69-3-207, MCA

Rule: ARM 38.5.2201, *et seq.*

Contact: PUBLIC SERVICE COMMISSION  
Utility Division

C. Underground Excavations

Prior to moving earth, rock or other ground material, excluding surface road grading, an excavator must first obtain information from a one-call notification center on the possible location of any underground facility. Every public utility, municipal corporation, underground facility owner or person with the right to bury underground facilities must be a member of a one-call notification center in the region where the facilities are located.

Before beginning a project, the excavator must notify the owners of underground facilities through the center. The owners must mark the locations of the facilities within two business days or respond immediately if informed it is an emergency. If the excavator has not excavated within 30 days, the excavator must request relocations and marks and is responsible for the associated costs.

Architects and engineers designing projects requiring excavation in a public right-of-way or easement must obtain information on underground facilities from the owners and then make the information part of the plan by which the contractors operate.

Statute: 69-4-501 through 69-4-504, MCA

Contact: PUBLIC SERVICE COMMISSION

CITY OR TOWN COUNCIL

BOARD OF COUNTY COMMISSIONERS

## **UTILITY AND MOTOR CARRIER REGULATION**

The Public Service Commission (PSC) regulates the rates and services of privately owned public utilities and has the authority to inquire into their management. Public utilities are defined as entities owning, operating or controlling a plant or equipment for delivering or furnishing heat, light, power, water, sewer or telecommunications services to others.

Utilities owned or controlled by a municipality, town or village or by a county or city-county water or sewer district or water or sewer association are excluded from PSC

regulation. The rates and services for these systems are determined by the local government or district.

The PSC regulates certain types of intrastate motor carriage transportation—issuing Certificates of Public Convenience and Necessity to certain carriers of passengers, household goods and garbage.

Single-state motor carrier licenses are issued through the Montana Department of Transportation, Motor Carrier Services Division. To receive a license, carriers traveling interstate must show proof of insurance with the Federal Highway Administration.

Statute: 69-3-101, *et seq.*, 69-7-101, *et seq.*, MCA (public and municipal utilities)  
69-12-101, *et seq.*, MCA (motor carriers)  
61-3-708 through 61-3-710, MCA (single-state registration)

Contact: PUBLIC SERVICE COMMISSION  
Transportation and Centralized Services Division  
Utility Division

MUNICIPAL GOVERNMENT  
City or City-County water or sewer district

DEPARTMENT OF TRANSPORTATION  
Motor Carrier Services Division

## UTILITY LINES

### 1. Types of Activities Regulated

#### A. Construction of Electric/Telecommunication Lines: Underground Facilities

The city or town council may regulate the erection of poles and stringing of wires, rods or cables in the streets or alleys or within the limits of the city or town, but not within highway rights-of-way. Corporations, persons or public bodies owning or operating electric power or telecommunication service and supply facilities are authorized to install and construct power or telecommunications lines or wires along and on any public roads, streets and highways in the state, and to erect posts, piers and abutments necessary to support the wires provided that they do not endanger the public in its use of roads, streets or highways. An entity exercising the right to use these public rights-of-way to construct electric distribution lines

and facilities in a new service area must install underground lines where technically and economically feasible.

Landowners, cities, towns, counties, rural electric cooperatives or public utilities that wish to convert existing overhead electric and communication facilities to underground locations may institute special improvement district proceedings. The governing body on its own initiative or by petition signed by 60 percent of the property owners owning 60 percent of the land of a proposed district can pass a resolution, make a study and make the study available for inspection in the governing office.

Statute: 7-13-4106, 69-4-101, 69-4-102 and 69-4-301, *et seq.*, MCA

Rule: ARM 38.5.1002

Contact: CITY OR TOWN COUNCIL

#### BOARD OF COUNTY COMMISSIONERS

The Public Service Commission (PSC) enforces the National Electric Safety Code, which governs all construction (overhead and underground electrical supply and communication lines) involving wires for power, heat, light, telephone, telegraph or signal transmission or reception. There are exceptions for railroad electrification and private construction of wires less than 450 volts. Cities and towns in the state may not enact any ordinance that conflicts with any provisions of the code, and conflicting ordinances are void.

Statute: 69-4-102 and 69-4-201 through 69-4-204, MCA

Contact: PUBLIC SERVICE COMMISSION  
Utility Division

#### B. Moving/Raising or Cutting Overhead Utility Lines or Poles

A person moving a structure through an area in which wires, cables or poles will interfere with the move must provide the person owning or controlling the utility lines or poles at least 10 days written notice of the time and place of the move. Notice must be provided to the principal office of the person owning or controlling the utility lines or poles and to that person's office nearest to the move.

At least three days prior to the move or within 10 days after the receipt of the notice of the movement, whichever time is sooner, the owner must

give the person moving the structure a written estimate of the total cost of raising or cutting the wires or cables and moving the poles.

After receiving proper notice of the intended move, the owner or person controlling the utility lines or poles must furnish competent workers to raise or cut the wires or cables and move the poles at the designated time and place of the move. The costs of the move are the responsibility of the person moving the structure, except, if the structure is owned by a person for occupancy and use by that person, the person moving the structure and the person owning or controlling the utility lines or poles must split the expenses. Prepayment of the estimate by the person moving the structure is required in some instances.

Public utilities, cable television companies and unregulated telecommunications providers must file with the PSC, by April 1 of each year, an application for approval of a cost schedule for labor and equipment for all work related to raising wires or cables or moving poles. The cost schedule is effective on a temporary basis, subject to a rebate and a surcharge pending a final order by the PSC.

The owner of agricultural lands may petition the District Court for permission to relocate overhead lines for the purposes of installing an agricultural improvement. After a hearing, the court may grant or deny the petition. The owner of the land must pay the costs of relocating the overhead lines.

Statute: 69-4-601, *et seq.* and 69-4-401, *et seq.*, MCA

Rule: ARM 38.5.2410 and 38.5.2414

Contact: PUBLIC SERVICE COMMISSION  
Utility Division